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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

AMERSON, LORI BAKER

ART UNIT PAPER NUMBER

3764

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,341

Applicant(s)

WINKLER, EDWARD R.

Examiner

L. Amerson

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 12-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 3-5, 12-16 and 18-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Response to Arguments

Claim Objections

1. Claims 1, 3-5, 8-12 are objected to because of the following informalities:
 - a. Claim 1, the recitation, "is secured within a mobile platform" is indefinite. The claim does not clearly set forth the metes and bounds of how the device is mobile. A positive limitation reciting such means is required. Since claims 8-10 and 11-12 are dependent from claim 1, they too are subjected to the same objection;
 - b. Claims 3-5 are objected to as being dependent from a cancelled claim; Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- a. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Miller. Miller teaches an exercise device (10) including a resistance device (fig. 2) and a leg support (22) pivotally secured to a seat (10). Regarding the language, "secured within a mobile platform", see the objection above. Regarding the language, "to increase blood circulation" has not been given patentable weight because the recitation is functional in nature and does not recite any structure.

b. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Shi. Shi teaches an exercise device (fig. 1) including a resistance device (60) and a leg support (30) pivotally secured to a seat (15). Regarding the language, "secured within a mobile platform", see the objection above. Regarding the language, "to increase blood circulation" has not been given patentable weight because the recitation is functional in nature and does not recite any structure.

c. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Sterling. Sterling teaches an exercise device including a resistance device (40) and a leg support (39) pivotally secured to a seat (13). Regarding the language, "secured within a mobile platform", see the objection above. Regarding the language, "to increase blood circulation" has not been given patentable weight because the recitation is functional in nature and does not recite any structure.

d. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Gasquez. Gasquez teaches an exercise device secured within a mobile platform (wheelchair) wherein a passenger engages the exercise device (fig. 1) while sitting, a resistance (12) and a leg support (foot pedal). Regarding the language, "to increase blood circulation" has not been given patentable weight because the recitation is functional in nature and does not recite any structure.

Allowable Subject Matter

6. Claims 3-5, 12-16 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to L Amerson whose telephone number is (571) 272-4971. The examiner can normally be reached on Mon.-Fri from 9-6 p.m. Interviews Tue. and Thur..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



L. Amerson